

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2666

Introduced by Assembly Member Skinner

February 19, 2010

An act to add Sections 19571 and ~~19185~~ 19188 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2666, as amended, Skinner. Income taxes: Franchise Tax Board: ~~business credits tax expenditures~~: Reporting Transparency in Government Internet Web site.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits ~~against~~, *deductions, exclusions, exemptions, and other tax benefits with respect to* the taxes imposed by those laws, ~~including business credits, as defined.~~

This bill would require a taxpayer doing business in this state that claims any tax expenditure ~~in the form of a business credit under the Personal Income Tax Law and the Corporation Tax Law~~ to submit, under penalty of perjury, to the Franchise Tax Board specified information, including, among other things, the amount of tax ~~credits expenditures~~ claimed by the taxpayer on the return for each ~~credit tax expenditure~~ authorized under ~~the Personal Income Tax Law and the Corporation Tax Law~~ *those laws*. By requiring taxpayers to submit this information under penalty of perjury, this bill would expand the circumstances under which a person may be convicted of the crime of perjury and thereby impose a state-mandated local program.

This bill would require the board to annually compile the information received, commencing with information based on ~~the 2010 taxable year~~ *taxable years beginning January 1, 2010*, and would require, beginning on March 30, 2012, and each March 30th thereafter, the board to submit the information to the State Chief Information Officer for publication on the Reporting Transparency in Government Internet Web site. This bill would require the *State Chief Information Officer to develop on the Reporting Transparency in Government Internet Web site to include* a searchable database of that information, as specified.

This bill would also impose a penalty ~~of equal to 1% of the credit aggregate amount of tax expenditures~~ claimed for each failure to file the required information, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19571 is added to the Revenue and
2 Taxation Code, to read:

3 19571. (a) Notwithstanding any other law, a taxpayer doing
4 business in this state that claims any tax expenditure ~~in the form~~
5 ~~of a business credit~~ shall submit to the Franchise Tax Board the
6 following information annually when filing the annual return
7 required under Part 10.2 (commencing with Section ~~18410~~):
8 *18401*);

9 (1) The number of full-time employees, as defined, part-time
10 employees, and temporary employees employed by the taxpayer
11 in this state.

12 (2) The amount of tax ~~credits~~ *expenditures* claimed by the
13 taxpayer on the return for each tax ~~credit~~ *expenditure* authorized
14 under Part 10 (commencing with Section 17001) or Part 11
15 (commencing with Section 23001).

16 ~~(3) The number of full-time jobs, part-time jobs, and temporary~~
17 ~~jobs created by the tax credit.~~

1 ~~(4) A list of occupations, job classifications, and expected~~
2 ~~average wages for the full-time jobs, part-time jobs, and temporary~~
3 ~~jobs created by the tax credit.~~

4 *(3) A list of occupations, job classifications, and average wages*
5 ~~for the full-time employees, part-time employees, and temporary~~
6 ~~employees employed by the taxpayer.~~

7 ~~(5)~~

8 (4) A certification by the taxpayer, signed under penalty of
9 perjury, that the information is true and correct and contains no
10 knowing misrepresentation.

11 ~~(6)~~

12 (5) The taxpayer's office mailing address and office telephone
13 number.

14 ~~(b) For purposes of this section, a "business credit" means any~~
15 ~~credit against "net tax," as defined in Section 17039, or any credit~~
16 ~~against the "tax," as defined in Section 23036, allowed under Part~~
17 ~~10 (commencing with Section 17001) or Part 11 (commencing~~
18 ~~with Section 23001), other than credits allowed under the following~~
19 ~~sections:~~

20 ~~(1) Section 17052.6 (relating to household and dependent care);~~

21 ~~(2) Sections 17052.17 and 23617 (relating to employer's child~~
22 ~~care assistance);~~

23 ~~(3) Section 23617.5 (relating to employer's credit for~~
24 ~~contribution to care plan);~~

25 ~~(4) Section 17052.18 (relating to qualified dependent care plan);~~

26 ~~(5) Section 17052.25 (relating to adoption costs);~~

27 ~~(6) Section 17053.5 (relating to renters' tax credit);~~

28 ~~(7) Sections 17053.30 and 23630 (relating to donations of~~
29 ~~conservation land);~~

30 ~~(8) Sections 17053.42 and 23642 (relating to disabled access~~
31 ~~expenditures);~~

32 ~~(9) Section 17054 (relating to personal, dependent, blind and~~
33 ~~senior exemptions);~~

34 ~~(10) Section 17054.5 (relating to joint custody head of~~
35 ~~household);~~

36 ~~(11) Section 17054.7 (relating to senior head of household);~~

37 ~~(12) Section 17055 (relating to non-resident pro-ration of~~
38 ~~exemption credits);~~

39 ~~(13) Section 17061 (relating to refunds pursuant to the~~
40 ~~Unemployment Insurance Code);~~

1 (b) For purposes of this section, all of the following shall apply:

2 (1) “Full-time employee” means an employee who works an
3 average of 35 hours in a week, or more, calculated monthly.

4 (2) “Part-time employee” means an employee who works less
5 than an average of 35 hours in a week calculated monthly.

6 (3) “Tax expenditure” means a tax expenditure listed in the
7 California Income Tax Expenditures Report published by the
8 Franchise Tax Board each year, and any credit, deduction,
9 exclusion, exemption, or any other tax benefit provided by the state
10 that is enacted after the report is published and that is not included
11 in the report.

12 (4) “Temporary employee” means an employee who works
13 fewer than 120 days each year.

14 (c) (1) Notwithstanding any other law, including Section
15 6254.21 of the Government Code, the Franchise Tax Board shall
16 annually compile the information received pursuant to this section,
17 commencing with information based on the 2010 taxable year
18 taxable years beginning January 1, 2010.

19 (2) Beginning on March 30, 2012, and each March 30th
20 thereafter, the Franchise Tax Board shall submit the information
21 to the State Chief Information Officer for publication on the
22 Reporting Transparency in Government Internet Web site.

23 (d) ~~The Reporting Transparency in Government Internet Web~~
24 ~~site shall include a database searchable~~ State Chief Information
25 Officer shall develop on the Reporting Transparency in
26 Government Internet Web site a searchable database by company
27 name, amount of tax expenditure, or any other criteria necessary
28 to increase public awareness of the amount and scope of tax
29 expenditures for businesses in this state.

30 ~~SEC. 2. Section 19185 is added to the Revenue and Taxation~~
31 ~~Code, to read:~~

32 19185.—

33 SEC. 2. Section 19188 is added to the Revenue and Taxation
34 Code, to read:

35 19188. A penalty of one percent of the credit equal to 1 percent
36 of the aggregate amount of tax expenditures claimed shall be
37 imposed for each failure to file the required information under
38 subdivision (a) of Section 19571, unless it is shown that the failure
39 is due to reasonable cause and not due to willful neglect.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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